

Central Intelligence Agency

§ 1900.34

(2) *Public interest* means the public interest in understanding the operations and activities of the United States Government and not simply any matter which might be of general interest to the requester or members of the public.

(b) *Determination to be made.* In making the required determination under this section and pursuant to exemption (b)(6) of the FOIA, the Agency will balance the privacy interests that would be compromised by disclosure against the public interest in release of the requested information.

(c) *Otherwise.* A requester seeking information on a third person is encouraged to provide a signed affidavit or declaration from the third person waiving all or some of their privacy rights. However, all such waivers shall be narrowly construed and the Coordinator, in the exercise of his discretion and administrative authority, may seek clarification from the third party prior to any or all releases.

§ 1900.33 Allocation of resources; agreed extensions of time.

(a) *In general.* Agency components shall devote such personnel and other resources to the responsibilities imposed by the Freedom of Information Act as may be appropriate and reasonable considering:

(1) The totality of resources available to the component,

(2) The business demands imposed on the component by the Director of Central Intelligence or otherwise by law,

(3) The information review and release demands imposed by the Congress or other governmental authority, and

(4) The rights of all members of the public under the various information review and disclosure laws.

(b) *Discharge of FOIA responsibilities.* Components shall exercise due diligence in their responsibilities under the FOIA and must allocate a reasonable level of resources to requests under the Act in a strictly "first-in, first-out" basis and utilizing two or more processing queues to ensure that smaller as well as larger (i.e., project) cases receive equitable attention. The Information and Privacy Coordinator is responsible for management of the Agency-wide program defined by this

part and for establishing priorities for cases consistent with established law. The Director, Information Management through the Agency Release Panel shall provide policy and resource direction as necessary and render decisions on administrative appeals.

(c) *Requests for extension of time.* When the Agency is unable to meet the statutory time requirements of the FOIA, it will inform the requester that the request cannot be processed within the statutory time limits, provide an opportunity for the requester to limit the scope of the request so that it can be processed within the statutory time limits, or arrange with the requester an agreed upon time frame for processing the request, or determine that exceptional circumstances mandate additional time. In such instances the Agency will, however, inform a requester of his or her right to decline our request and proceed with an administrative appeal or judicial review as appropriate. Effective October 2 1997, the definition of exceptional circumstances is modified per section 552(a)(6)(C) of the Freedom of Information Act, as amended.

§ 1900.34 Requests for expedited processing.

(a) *In general.* All requests will be handled in the order received on a strictly "first-in, first-out" basis. Exceptions to this rule will only be made in accordance with the following procedures. In all circumstances, however, and consistent with established judicial precedent, requests more properly the scope of requests under the Federal Rules of Civil or Criminal Procedure (or other federal, state, or foreign judicial or quasi-judicial rules) will not be granted expedited processing under this or related (e.g., Privacy Act) provisions unless expressly ordered by a federal court of competent jurisdiction.

(b) *Procedure prior to October 2, 1997.* Requests for expedited processing shall be granted only in circumstances that the Agency deems to be exceptional. In making this determination, the Agency shall consider and must decide in the affirmative on all of the following factors:

(i) That there is a genuine need for the specific requested records; and

(ii) That the personal need is exceptional; and

(iii) That there are no alternative forums for the records or information sought; and

(iv) That it is reasonably believed that substantive records relevant to the stated needs may exist and be deemed releasable.

(2) In sum, requests shall be considered for expedited processing only when health, humanitarian, or due process considerations involving possible deprivation of life or liberty create circumstances of exceptional urgency and extraordinary need.

(c) *Procedure on or after October 2, 1997.* Requests for expedited processing will be approved only when a compelling need is established to the satisfaction of the Agency. A requester may make such a request with a certification of “compelling need” and, within ten (10) days of receipt, the Agency will decide whether to grant expedited processing and will notify the requester of its decision. The certification shall set forth with specificity the relevant facts upon which the requester relies and it appears to the Agency that substantive records relevant to the stated needs may exist and be deemed releasable. A “compelling need” is deemed to exist:

(1) When the matter involves an imminent threat to the life or physical safety of an individual; or

(2) When the request is made by a person primarily engaged in disseminating information and the information is relevant to a subject of public urgency concerning an actual or alleged Federal government activity.

CIA ACTION ON FOIA ADMINISTRATIVE APPEALS

§ 1900.41 Establishment of appeals structure.

(a) *In general.* Two administrative entities have been established by the Director of Central Intelligence to facilitate the processing of administrative appeals under the Freedom of Information Act. Their membership, authority, and rules of procedure are as follows.

(b) *Historical Records Policy Board (“HRPB” or “Board”).* This Board, the successor to the CIA Information Re-

view Committee, acts as the senior corporate board in the CIA on all matters of information review and release.

(1) *Membership.* The HRPB is composed of the Executive Director, who serves as its Chair, the Deputy Director for Administration, the Deputy Director for Intelligence, the Deputy Director for Operations, the Deputy Director for Science and Technology, the General Counsel, the Director of Congressional Affairs, the Director of the Public Affairs Staff, the Director, Center for the Study of Intelligence, and the Associate Deputy Director for Administration/Information Services, or their designees.

(2) *Authorities and activities.* The HRPB, by majority vote, may delegate to one or more of its members the authority to act on any appeal or other matter or authorize the Chair to delegate such authority, as long as such delegation is not to the same individual or body who made the initial denial. The Executive Secretary of the HRPB is the Director, Information Management. The Chair may request interested parties to participate when special equities or expertise are involved.

(c) *Agency Release Panel (“ARP” or “Panel”).* The HRPB, pursuant to its delegation of authority, has established a subordinate Agency Release Panel.

(1) *Membership.* The ARP is composed of the Director, Information Management, who serves as its Chair; the Information Review Officers from the Directorates of Administration, Intelligence, Operations, Science and Technology, and the Director of Central Intelligence Area; the CIA Information and Privacy Coordinator; the Chief, Historical Review Group; the Chair, Publications Review Board; the Chief, Records Declassification Program; and representatives from the Office of General Counsel, the Office of Congressional Affairs, and the Public Affairs Staff.

(2) *Authorities and activities.* The Panel shall meet on a regular schedule and may take action when a simple majority of the total membership is present. The Panel shall advise and assist the HRPB on all information release issues, monitor the adequacy and